

1984 WL 249996 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 25, 1984

*1 Honorable D. M. McEachin, Jr.
Member
House of Representatives
Drawer 150
Florence, South Carolina 29503

Dear Malloy:

Thank you for your letter of October 16 addressed to the Attorney General wherein you request the advice of this Office upon whether you may contact the Public Service Commission and express your position and the position of your constituents concerning customer assessment for business license fees incurred by regulatory industries. I have attached a prior opinion of this Office that provides guidance in this area. The opinion concludes among other things that a member of the General Assembly, when acting as the elected Representative of his constituency, may appear before the Public Service Commission without compensation or other financial benefit, solely to represent the interests of his constituents. This conclusion would allow you to contact the Public Service Commission on behalf of your constituents in your capacity as a Representative.

We caution, however, that once a disputed matter reaches the 'contested case' stage before the Public Service Commission, the provisions of the South Carolina Administrative Procedures Act become applicable. §§ 1-23-310, [et seq. Code of Laws of South Carolina](#), 1976 (1983 Cum.Supp.). Section 1-23-360 of that Act emphasizes the intent of the General Assembly that ex parte communications with and by Commissioners who must adjudicate a contested case are prohibited. Thus, if you are communicating with the Commission concerning a matter that is currently being adjudicated by the Commission, communication should proceed in accordance with the usual, ordinary evidentiary processes rather than by letter addressed to the Commission. Again, since as we understand the subject of your inquiry involves a matter that is of general concern and is not currently being litigated before the Commission, we perceive no particular problem with your communication concerning the position of your constituency upon this matter.

If I may answer any further questions, please call upon me.

Very truly yours,

Edwin E. Evans
Senior Assistant Attorney General

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